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19 **UNITED STATES DISTRICT COURT**
20 **CENTRAL DISTRICT OF CALIFORNIA**
21 **SANTA ANA DIVISION**

22 In re:

23 HEARTWISE, INC.,
24 Debtor.

Case No. 8:20-bk-13335-MW

Judge: Hon. Mark S. Wallace

Chapter 11

**JOINDER OF QUALINUTRA, INC.
AND ALPHA HEALTH
RESEARCH, INC. (AKA DRM) TO
MOTION OF HEARTWISE, INC.
FOR ORDER: (1) CLARIFYING
THAT DISCOVERY HAS CLOSED
ON THE CHAPTER 11 TRUSTEE
MOTION AND 503(B)(9) MOTION;
AND (2) PROHIBITING
DISCOVERY IN CONNECTION
WITH THE DISCLOSURE
STATEMENT**

Hearing Date: June 7, 2021
Time: 2:00 p.m.
Courtroom: 6C

**TO THE HONORABLE MARK S. WALLACE, UNITED STATES
BANKRUPTCY JUDGE, THE OFFICE OF THE UNITED STATES
TRUSTEE, AND ALL OTHER PARTIES IN INTEREST:**

QualiNutra, Inc. (“QualiNutra”) and Alpha Health Research, Inc. (a/k/a DRM) (“Alpha”) hereby join the Motion of Heartwise, Inc. for Order: (1) Clarifying that Discovery Has Closed on the Chapter 11 Trustee Motion and 503(b)(9) Motion; and (2) Prohibiting Discovery in Connection with the Disclosure Statement, filed as Docket Number 260 on May 26, 2021 (the “Motion to Clarify”). QualiNutra and Alpha hereby adopt the arguments and reasoning of the Motion to Clarify and any related reply briefing as if fully set forth herein.

In addition, QualiNutra and Alpha wish to briefly address the incorrect claim made by Vitamins Online, Inc. (“Vitamins”) in its Opposition to the Motion to Clarify regarding the effect of the Court’s Order dated May 13, 2021 to continue the hearing on Vitamins’ Trustee Motion (Docket No. 67) to the current date of July 14, 2021. Vitamins, represented by its newest counsel, claims in the Opposition (Docket No. 269 at p. 10) that this Order gives it the opportunity to set depositions and file further briefing in support of the Trustee Motion. Not so.

At the outset, in response to a request from Vitamins’ former counsel, the Court has already given Vitamins an additional round of discovery and briefing regarding the Trustee Motion at the April 7, 2021 hearing (Docket No. 291 at p. 2). That additional discovery was closed on April 28, 2021 (*Id.*), and Vitamins filed its additional brief on that same day (Docket No. 185). There is no dispute that when the Court issued its May 13, 2021 Order, all discovery and briefings on the Trustee Motion have been closed. As made clear by the Court’s Order (Docket No. 219), the Court continued the hearing solely because of “the filing of the First Amended Plan” (“In view of the filing of the First Amended Plan, the Court HEREBY continues the hearing re: Motion to Appoint a Chapter 11 Trustee, to July 14, 2021

1 at 2:00 p.m.”), not because further discovery or briefing on the Trustee Motion is
2 needed. Simply put, there is no authority or “new facts” that would give Vitamins
3 another round of discovery and briefing, especially when such discovery and
4 briefing pertain to transactions known by Vitamins since at least January 9, 2021
5 (Docket No. 291 at pp. 2-3).

6
7 **CONCLUSION**

8 For the reasons set forth in the Motion to Clarify and above, QualiNutra and
9 Alpha request that the Court grant the Motion and deny the discovery at issue.
10 QualiNutra and Alpha also request to be heard at the hearing on the Motion on June
11 7, 2021.

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14 Date: June 3, 2021

Respectfully submitted,

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16 By: /s/ K. Luan Tran

KING & SPALDING LLP

17 Mark M. Maloney

18 Jonathan W. Jordan

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